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SUPREME COURT
STATE OF WASHINGTON

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80834-1

SUPREME COURT
OF THE STATE OF WASHINGTON

James Pulliam # 845002 Petitioner

v.

Department of Corrections Respondent

FOR DISCRETIONARY REVIEW

Jay Pullman

, acting pro se, Petitioner

McNeil Island Corrections Center

P.O. Box 881000

Steilacoom, Wa. 98388

Appendix

Issues

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Relevant info

Other

ISSUES

1. Is the Appellate Court decision in my matter consistent with the decision they made in Adams Wn App. 640

2. Did I receive written notice before cancellation of my release date

3. Did I have a opportunity to be heard before a competent tribunal

4. Did I have a opportunity to challenge the facts relied on to change my tentative release date.

Statement of facts

1. In 2003, the Legislature amended the Sentencing Reform Act of 1981 to allow an inmate, who DOC classifies in the two lowest risk categories, to qualify for earned release at 50 percent of sentence

2. On February 25, 2005 I was screened and found to be eligible to receive 50 Percent earned release time under RCW 9.94 A.728(1)(b)

3. On April 21, 2005 I receive WAC# 557 infraction

4. The Department of Correction states

that on February 3, 2006 they did

a risk assessment and my risk

assessment score changed from 40 to

41 which excluded me for receiving

50 percent earned release time.

5. On July 11th 2006 I received a

Letter responding to my correspondence

6. On October 18, 2007 my Personal

Restraint Petition was dismissed.

Argument

1. RCW 9.9A 7.15 (2)(c) states as follows

The department may not impose conditions

that are contrary to those ordered by

the court and may contravene or decrease

Court impose conditions. The department

shall notify the offender in writing

of any such conditions or modifications.

In setting modifying and enforcing conditions

of community custody. The department

shall be deemed to be performing a

quasi-judicial function.

2. On February 22, 2005 DOC performed

a risk assessment, I was initially informed that I was eligible to earn early release credits at a rate of 50 percent Pursuant to RCW 9.94 A, 728(1)(b)

3. The case of *In re Pers. Restraint of*

Adams 132 Wn App 640, 134 117 (2006)

is instructive. In that case the Department

of Corrections initially informed Adams

that he would be eligible to earn early

release credits at a rate of 50 percent

Pursuant to RCW 9.94 A, 728(1)(b)

4. At some later date the DOC reassessed Adam's risk of re-offending, raising his risk assessment score over 40. This revised score rendered him ineligible for the enhanced early release program.

5. At the later date of February 3, 2006 DOC reassessed my risk of re-offending, and raised my risk assessment score over 40. This revised score rendered me ineligible for the enhanced early release program.

6. In the Personal Restraint of Adams 132
Un App at 643 It was not that DOC

reviewed Adams risk assessment and decided it did not adequately considered his long time drug addiction, criminal and prison history.

7. I was found to be ineligible after being eligible. So my prison history was not adequately considered.

8. The case of *in re pers restraint of*

Adams 132 Wn. App 640, 134 P.3d 117

(2006) shows striking resemblance to

my case, only my case was dismissed.

On February 3, 2006 I was supposedly reassessed and found to be ineligible for 50 percent earn release time, shortly after findings of guilt of 4 minor major dated January 6, 2006

Reassessments will be event driven

My previous infraction was eight months prior to being found ineligible

It can only be concluded that the 4 minor major received on January 6, 2006 was the straw that broke the camel

back, or at least played a role in me being found ineligible after being eligible.

A four minor major infraction is four or more general infraction in a six month period of time.

One of my general infractions which lead to my major infraction was # 102, 103

(failure to secure cell door) Without this general infraction dated November 27, 2005 there would be no 4 minor major dated on January 6, 2006

My cellmate was found guilty of the same infraction

Only requirement of guilt was that I occupied the cell in question.

The counselor / cco will use multiple sources whenever possible to verify the information provided by the offender to enhance the reliability and validity of the LSI-R / RM1 assessment. The results of a risk assessment will not be based on unconfirmed or unconfirmable allegations

failure to secure cell door is a cell tag

Cell Tag (definition) - If contraband or

11

Other violation is discovered in an area under control of the inmate (Such as within the confines or content of cell the contraband or other violation shall be constructively attributed to the inmate(s) assigned to the area, unless the inmate(s) can establish a lack of involvement in the infraction at the disciplinary hearing.

In prison disciplinary hearings, due process requires the DOC to show some evidence of the inmate's guilt In re the

PRP of Johnston, 109 Wn. 2d 493, 497 745 P. 2d 864 (1987)

In re the PRP of Reismiller 101 Wn. 2d
291, 294, 678 P. 2d 328 (1984) "A hearing
is arbitrary and capricious only if no
evidence supports the action taken.

Minimum due process requires written notice
of the reasons DOC is seeking to change

Adams Classification and an opportunity
to challenge the facts Pers. Restraint of

Adams 132 Wn. App. 640 Wolf v MC Donnell,
418 U.S. 539, 557, 58, 94 S. Ct 2963 / U.S.

539, 41 L.ED 2d 935

If I was given due process before

I was reclassified I would have

Challenge the general infraction DOC relied
on.

I would have told them how my cellmate
would purposely leave the cell door open.

So that I would have to do cell confinement
with him.

I was made aware of this after the
infraction hearing. He lead me to believe
the cell door was malfunctioning

Where sanctions imposed for general
infractions result at most in loss of

privileges and not loss of good time
credits, prisoner charge with general infractions
are not entitled to minimum due process,
and the process afforded by regulation
is all the inmates due *Wolff* 418 U.S.
at 571-72

Initially because a ~~minor~~ minor infraction
does not result in a loss of liberty but
at most disciplinary segregation, constitutional
due process does not attach for minor
infractions *Sandin V. Conner*, 515 U.S. 472,
115 S. Ct. 299, 132 L. Ed

The department of Correction states that on February 3, 2006 I was reassessed (without my presence) my score changed from 40 to 41 which excluded me from receiving 50 Percent earned release time.

On this very day of February 3, 2006 I had a Facility Plan Review to be promoted to minimum custody. I was verbally told I was still eligible for 5990 my release date is consistent with me receiving 50 Percent early release time.

The appellate court agrees with me that

I was reclassified without written notice,

Upon completion of an accurate/valid

risk assessment, an override of the

Rm1 designation will not be used for

incarcerated offenders, except to classify

offenders with a current sex offense no

lower than RM-B

Once I Loss my 5990 on accurate

risk assessment was done I had

no right to challenge the facts because

I could not be overridden while in

Custody.

Conclusion

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The Court of Appeal has committed Probable error and the decision of the Appellate Courts substantially alter the status quo whereas my due process is limited to an minor infraction hearing with no opportunity to challenge facts.

I ask the courts to grant me 50 percent earned release and/or immediate release from custody in the interest of Justice.

RICHARD D. JOHNSON,
Court Administrator/Clerk

The Court of Appeals
of the
State of Washington
Seattle
98101-4170

DIVISION I
One Union Square
600 University Street
(206) 464-7750
TDD: (206) 587-5505

October 18, 2007

Jay Robert Pulliam Jr
#845002
Airway Heights Correctional Center
PO Box 2019
Airway Heights, WA, 99001

Alex A Kostin
Criminal Justice Division
PO Box 40116
Olympia, WA, 98504-0116

CASE #: 60245-4-I
Personal Restraint Petition of James Robert Pulliam Jr

Counsel:

Enclosed please find a copy of the Order Dismissing Personal Restraint Petition entered by this court in the above case today.

Pursuant to RAP 16.14(c), "the decision is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in Rule 13.5(a), (b) and (c)."

This court's file in the above matter has been closed.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

law

enclosure

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

IN THE MATTER OF THE)	
PERSONAL RESTRAINT)	No. 60245-4-I
OF:)	
)	ORDER OF DISMISSAL
JAMES PULLIAM, JR.,)	
)	
<u>Petitioner.</u>)	

James Pulliam files this personal restraint petition contending that his release date has been incorrectly calculated by the Department of Corrections (DOC). As the petitioner, it is Pulliam's burden to show that his current restraint is unlawful. RAP 16.4; In re Pers. Restraint of Cashaw, 123 Wn.2d 138, 866 P.2d 8 (1994). Pulliam contends that the DOC violated his due process rights when it determined he was not eligible for enhanced early release under RCW 9.94A.728(1). But because he fails to demonstrate that he is being unlawfully restrained, the petition is dismissed. See Cashaw, 123 Wn.2d at 148-49.

In 2002, a jury convicted Pulliam of one count of bail jumping, one count of delivery of cocaine, and one count of possession of cocaine in King County No. 01-1-08905-2 SEA. Pulliam received a Drug Offender Sentencing Alternative (DOSA) sentence of 37.75 months of confinement and an equal period of community custody. Thereafter, Pulliam was convicted by a jury of possession with intent to deliver cocaine in King County No. 04-1-10110-3 SEA. Pulliam was again sentenced under DOSA to 20 months of confinement to be followed by 20 months of community custody. The sentencing court ordered the sentences in Nos. 01-1-08905-2 SEA and 04-1-10110-3 SEA to run consecutively to one another.

Following his imprisonment, Pulliam was screened on February 24, 2005, and found to be eligible to receive 50 percent earned release time under RCW 9.94A.728(1)(b). Pulliam's eligibility for the earned early release program was reassessed on February 3, 2006.

Pulliam challenges the DOC's decision to award him earned early release credits at a rate less than the maximum authorized by law. In 2003, the Legislature amended the Sentencing Reform Act of 1981 to allow an inmate, who DOC classifies in the two lowest risk categories, to qualify for earned early release at 50 percent of the sentence instead of the previous 33 percent. RCW 9.94A.728(1)(b). The statute requires DOC to perform a risk assessment on every eligible inmate to determine eligibility for the enhanced early release program. Based on the answers an inmate gives in the Level of Service Inventory – Revised (LSI-R), together with other relevant information, DOC calculates a risk assessment score. The score, in turn, determines the inmate's classification level, RM-A, RM-B, RM-C, or RM-D. Only inmates whose DOC scores fall within classifications RM-C and RM-D qualify to earn early release time at 50 percent.

Pulliam argues that DOC's decision to reclassify him as RM-B was unlawful. Pulliam claims that, under his original classification, he was eligible to receive 50 percent earned release time under RCW 9.94A.728(1)(b)(ii). Because the change to his risk management score was done in violation of his due process rights, Pulliam argues, he should be immediately released from DOC custody "in the interest of justice." This claim fails.

The case of In re Pers. Restraint of Adams, 132 Wn. App. 640, 134 P.3d 1176 (2006) is instructive. In that case, the DOC initially informed Adams that he would be

eligible to earn early release credits at a rate of 50 percent pursuant to RCW 9.94A.728(1)(b). At some later date, the DOC reassessed Adam's risk of reoffending, raising his risk assessment score over 40. This revised score rendered him ineligible for the enhanced early release program. The court in Adams held that in these circumstances "minimum due process requires written notice of the reasons DOC is seeking to change [an inmate's] classification and an opportunity to challenge the facts DOC relied on from his files to reach that decision." 132 Wn. App. at 653.

Here the reclassification resulted in Pulliam's risk assessment score changing from 40 to 41, which rendered him ineligible to receive 50 percent earned early release credit. Even before Pulliam filed his petition, the DOC notified him by letter of the specific factors used to increase his risk assessment score.¹ The letter also advised Pulliam that he had the right to challenge "any inaccuracies." And while Pulliam complains that the reclassification occurred without any input from him,² he fails to establish that he was denied any process due him under Adams.

Pulliam's argument unquestionably has a certain appeal. While Pulliam is correct that he was reclassified without any advance notice or opportunity to respond, the reclassification was made only after Pulliam had been given prison disciplinary hearings

¹ At the time the risk assessment was reviewed by your classification counselor on 2/3/2006 you had incurred several events that impacted your risk assessment scoring. The change in the risk assessment score is based on your behaviors while incarcerated and events that occurred after the 4/4/2005 risk assessment. The one item which was changed to increase the risk assessment score is based on the following:

- Offender Based Tracking System (OBTS) indicates guilty findings of four (4) serious major infractions:

1. 4/21/200[5] WAC #557 Refusing to Program
2. 6/4/2005 WAC 505 Fighting
3. 6/30/2006 WAC 740 Fraud
4. 1/6/2006 WAC 657 Four or more general infraction within a 6-month period of time.

² Pulliam asks rhetorically, "[h]ow can a letter sent July 11, 2006 give notice to an event that took place February 3, 2006[?]"

and found guilty of disciplinary violations. Pulliam does not dispute that he violated certain prison rules or that he was afforded a disciplinary hearing after being accused of each violation. Minimum due process hearings are provided in situations where an inmate is accused of violating disciplinary rules within the correctional facility. Monohan v. Burdman, 84 Wn.2d 922, 530 P.2d 334 (1975). In all but one case, Pulliam does not challenge the results of the disciplinary hearings on due process or other grounds.³ Since the reclassification was virtually preordained by the outcome of the underlying disciplinary hearings, and since Pulliam was afforded due process at those hearings, it appears his rights were adequately protected. See In re Pers. Restraint of Piercy, 101 Wn.2d 490, 495-96, 681 P.2d 223 (1984). Under the circumstances, Pulliam has not shown, either legally or factually, that the change in his risk assessment level unfairly prejudiced him. A due process violation is not established without a showing of prejudice. See Smith v. United States Parole Comm'n, 875 F.2d 1361, 1368 (9th Cir. 1989); Standlee v. Rhay, 557 F.2d 1303, 1307-08 (9th Cir. 1977); In re Pers. Restraint of Reismiller, 101 Wn.2d 291, 294, 678 P.2d 323 (1984).

Finally, Pulliam appears to dispute whether prison disciplinary infractions can properly be included as one of the criteria for establishing an offender's risk assessment score. The premise underlying this argument is flawed. The Legislature granted DOC discretion to select the appropriate risk assessment instrument. In re Pers. Restraint of

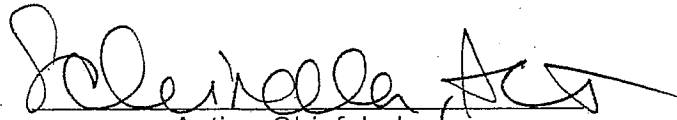
³ Pulliam appears to argue that he would have done things differently had he known that the fraud disciplinary infraction could be used to increase his risk assessment score. This argument is based on pure speculation and cannot be the basis for relief in a personal restraint proceeding. In re Pers. Restraint of Rice, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992).

Adams, 132 Wn. App. 640, 648, 134 P.3d 1176 (2006). "It appears the LSI-R is consistent with the requirement of RCW 9.94A.030(35)⁴ and RCW 9.94A.728." Adams, 132 Wn. App. at 649. Accordingly, Pulliam has not stated a ground upon which relief can be granted by way of a personal restraint petition.

Now, therefore, it is hereby

ORDERED that the personal restraint petition is dismissed under RAP 16.11(b).

Done this 10th day of October, 2007.


Acting Chief Judge

⁴ The term "risk-assessment" is defined in RCW 9.94A.030(35) as: "the application of an objective instrument supported by research and adopted by the department for the purposes of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations."

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STATE OF WASHINGTON
2007 OCT 18 AM 9:36



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
P.O. Box 41100 • Olympia, Washington 98504-1100

July 11, 2006

Mr. Jay R. Pullman, DOC#845002
Stafford Creek Correctional Center
191 Constantine Way
Aberdeen, WA 98520

Re: ESSB 5990 Decision and Risk Assessment

Dear Mr. Pullman,

Thank you for your correspondence sent to the Department of Corrections, Headquarters, on 7/09/2006. The 5990 eligibility decision is considered a classification action and is only appealed through the institutional superintendent which it appears based on your correspondence you have already pursued. Once the superintendent responds to your appeal, the action is final. Headquarters does not review the decision. You also have the right to review any information in your offender file which was used in the risk assessment process, except for the risk assessment instrument itself. To review your file, you must make a written request to the Records Manager at the institution in which you are located. You may review DOC policy #280.510 "Public Disclosure of Records", and submit your written request on form #DOC 05-066 or a written letter of correspondence to the Records office.

The ESSB 5990 legislation requires that the department review the criminal history of offenders and determine if the offender is eligible to be awarded the 50% earned time credit and/or supervision closure based on past or current criminal convictions. If no criminal convictions exist that exclude the offender from 5990 considerations, the next step is to complete a risk assessment. That risk assessment (LSI-R/RMI) is designed to place offenders in one of four risk categories (RMA, RMB, RMC, or RMD). The offender is excluded from 5990 eligibility if placed in one of the two higher risk categories (RMA/RMB). The 50% earned time and supervision closure is awarded to those offenders placed in one of two lower risk categories (RMC/RMD).

Your current risk assessment is based on all information available to the assessor at the time of the review. The risk assessment is based on all criminal convictions and behaviors (past and present), community circumstances prior to your most recent incarceration and some circumstances during incarceration. The risk management level is used to assure that those individuals who pose an elevated risk in the community are not released inappropriately, as well as ensure those offenders receive community services after release. Your risk assessment score changed from 40 (risk assessment completed on 4/4/2005) to 41 (risk assessment completed on 2/3/2006). The Level of Service Inventory-

"Working Together for SAFE Communities"



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

FORM H

GENERAL INFRACTION REPORT

OFFENDER NAME (LAST, FIRST) <u>PULLMAN, JAY</u>		DOC NUMBER <u>845002</u>	CELL ASSIGNMENT <u>HA25U</u>
TIME OF INCIDENT <u>1748</u> <input type="checkbox"/> A.M. <input checked="" type="checkbox"/> P.M.	PLACE OF INCIDENT (BE SPECIFIC) <u>H-UNIT</u>		DATE OCCURRED <u>11-27-05</u>
RULE VIOLATION #(S) <u>102, 103</u>		WITNESS(ES)	
DETAILS OF VIOLATION (BE BRIEF AND CONCISE): <u>On 11-27-05 at approx 1748 in H-UNIT, while conducting a tier check. I officer Stark found the door to cell HA25 unsecured. Inmate Pullman, J. #845002 is assigned to this cell. In Pullman was sitting in the dayroom at this time. This In has been warned several times for this problem. Behavior log attached.</u>			
REPORTING STAFF NAME (LAST, FIRST) <u>STARK, M</u>	REPORTING STAFF SIGNATURE <u>[Signature]</u>	SHIFT <u>3rd</u>	DAYS OFF <u>F/S</u>
NOTICE TO OFFENDER			
YOU WILL BE SCHEDULED FOR ADMINISTRATIVE ACTION IN THE UNIT WITHIN FIVE (5) WORKING DAYS. A CALL SHEET WILL BE POSTED 24 HOURS IN ADVANCE OF THE HEARING. NO WITNESS(ES), STAFF MEMBER(S), OR OFFENDER(S) ARE ALLOWED.			
SERVED: (STAFF SIGNATURE) <u>clb amed</u>	DATE <u>11-28-05</u>	TIME <u>11:30</u> <input checked="" type="checkbox"/> A.M. <input type="checkbox"/> P.M.	OFFENDER SIGNATURE <u>[Signature]</u>
SUPERVISOR / UNIT TEAM NAME(S): <u>SGT TOOMEY</u>			
HEARING DATE <u>11/30/05</u>	OFFENDER PLEA: <input checked="" type="checkbox"/> NOT GUILTY <input type="checkbox"/> GUILTY FINDING: <input type="checkbox"/> NOT GUILTY <input checked="" type="checkbox"/> GUILTY		
ADMINISTRATIVE ACTION TAKEN / REASON(S): <u>STATEMENT: THE DOOR IS MALFUNCTIONING</u> <u>FINDING: GUILTY 102, 103</u> <u>SANCTION: 10 D.C.C.</u> <u>REASON: 2ND 102, 2ND 103 & 3RD INFRACTION SINCE 11/14/05</u> <u>NO APPEAL IMPOSED 12-205</u>			
Time: <u>1830</u>		<u>24 HOURS TO APPEAL</u>	

NOTE: THIS FORM IS FOR GENERAL INFRACTIONS ONLY. SERVE THE PINK COPY TO THE OFFENDER AFTER IT HAS BEEN SIGNED BY THE REVIEWER. SERVE THE YELLOW COPY TO THE OFFENDER AFTER TAKING ADMINISTRATIVE ACTION. RETAIN THE WHITE COPY FOR SIX (6) MONTHS IN ORDER TO COMPLY WITH WAC 137-28-030, INFRACTION 657. GH-05-11-31

Distribution: WHITE - Unit File, CANARY - To offender after review has been conducted and signature obtained, PINK - To be given to offender when notice is given as to review date and time

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STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

CBCC RECORDS OFFICE

FACILITY PLAN

Offender Information

Offender Name (last, first, middle initial, suffix): PULLMAN, JAY R.				DOC Number: 845002	Offender Status: Active inmate
DOB: 04/15/1974	Time Start: 03/16/2004	(P)ERD: 10/13/2006	Maximum Exp Date: 10/09/2007	Mandatory Exp. Date:	Current Custody: MED
LSI-R Score 41	RMI Level: RMC	SMIO: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	RMIT Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Comm Custody/Placement Yes <input type="checkbox"/> NO <input checked="" type="checkbox"/>	Community Custody Range: From: 9 to: 12 months
ISRB: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	SRA 10-day Release Status: Eligible		End of Sentence Review Screening Completed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		Special Sentence Alternative: Sentence:
Detainer / Warrant: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		If "Yes", please list:			

Purpose of Report

Purpose of Report: <input type="checkbox"/> Board Report <input checked="" type="checkbox"/> Plan Change (P) Review <input type="checkbox"/> Time Exceeds 6 years		<input type="checkbox"/> Intake (P) Facility Plan <input type="checkbox"/> Scan Only <input type="checkbox"/> Extraordinary Medical Placement <input type="checkbox"/> Other (Specify):		<input type="checkbox"/> HCSC <input type="checkbox"/> Override <input type="checkbox"/> Map	
Prepared By: C. Palmer, CCII				Referral Location: CBCC/MSD	Date: 02/03/06

Offender Community Support

Anticipated Release Address: 11506 Stone Avenue N. Apt. #E102, Seattle, WA 98133 Phone Number 206-363-6844		Residence Sponsor: Janice Spivey Relationship to Offender: Aunt	
Additional Individuals in the Home			
Name: (last, first, MI)		Adult / Minor	Relationship to Offender:
Has the sponsor or others residing in the home been a victim of the offender? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			

Programs


Basic Skills	Narrative: Inmate Pullman has a verified GED. There are no further basic skills requirements.
Job/Work	Narrative: Inmate Pullman is currently not working. He is expected to obtain and maintain a work program as required and approved by Policy.
Offender Change	Narrative: Inmate Pullman is not currently enrolled in any offender change programming. He may be referred to offender change programs as indicated by his behavior, risk assessment or other documented needs.

Offender DOC # 845002	Offender Name: PULLMAN, JAY R.
Don 20-402 (Rev. 03/04/03) 1 of 3	



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
OLYMPIC CORRECTIONS CENTER
11235 Hoh Mainline • Forks, Washington 98331

April 13, 2006

TO: Jay Pullman, DOC #845002
FROM:  Karen Brunson, Superintendent
SUBJECT: **DENIAL 5990**

I have received your letter and reviewed the documentation. Unfortunately, an error was made in the calculation of your custody level giving the impression that you were R.M.C. status when in fact, you were R.M.B. The current documentation has been audited by the headquarters team and found to be correct. I have spoken to the unit CUS who will work to provide you with work release given the new classification.

I encourage you to work closely with your counselor when you have questions or concerns.

KDB:dd

"Working Together for SAFE Communities"

NUMBER DOC 320.400	TITLE RISK ASSESSMENT PROCESS	EFFECTIVE DATE 9/19/05	PAGE NUMBER 5 of 8
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- a. Description of past and present criminal behavior to include:
 - 1) Crime titles,
 - 2) Cause numbers,
 - 3) Crime dates,
 - 4) Sentence dates,
 - 5) Disposition for convictions, and
 - 6) The source of the information use (i.e., victim's statement, policy reports, PSI, etc.).
- b. Description of violence and harm done to the victim(s),
- c. Victim/community concerns,
- d. Explanation of risk/need factors identified,
- e. Attitude toward risk behaviors,
- f. Description of protective factors and pro-social supports,
- g. Sufficient information to support all scoring decisions,
- h. Any other information that may be pertinent to the supervision effort, and
- i. Victim/offender relationship.

B. Upon completion of the initial LSI-R/RMI assessment, the Counselor/Facility CCO will complete a DT07 "RA" (PRISON RA COMPL) coded entry.

C. The Counselor/CCO will update applicable sections of the OMNI LSI-R and RMI applications, including the risk narratives, with any new reassessment information.

V. Risk Management Level Reclassification

A. Reclassification means a change in RMI classification. Reclassification can occur through reassessment or through the override process.

1. Only RM-A offenders who meet the following criteria can be reclassified through reassessment:
 - a. Have an LSI-R score of 41 or over, with a past or current conviction on the Felony Index of Violent and/or Serious Violent Offenses, or comparable conviction from another state.
 - b. Are considered an Imminent Risk.
2. A reclassification of an RM-A offender will require supervisory approval. Approval will be documented on OMNI RMI.
3. Offenders classified RM-A per the other criteria outlined in Risk Management Identification (RMI) Criteria (attached) must remain RM-A. These offenders cannot be reclassified through the period of community supervision unless extenuating circumstances exist to warrant an override, a Violence Risk Appraisal Guide (VRAG) is completed which indicates a

NUMBER DOC 320.400	TITLE RISK ASSESSMENT PROCESS	EFFECTIVE DATE 9/19/05	PAGE NUMBER 7 of 8
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10. RM-D offenders in the community will only be reassessed when a disciplinary hearing has been completed or information is received that suggests an increased risk to the community, past victims, or potential victims. Reclassification of an RM-D offender requires supervisory approval.

VI. Risk Management Level Overrides

A. Field Overrides

1. An offender's risk management level may be overridden up or down when there exists an aggravating or mitigating factor not taken into account by the RMI criteria.
 - a. Only DOSA and sex offenders will remain supervised at the RM-C classification level. Upon completion of intake, classification, and any treatment referrals all other RM-C offenders will be overridden to RM-D.
 - b. Eligible RM-A and RM-B offenders who successfully complete 70 percent of their supervision or the low end of the community custody range, whichever is greater will be overridden to RM-D. Not all RM-A or RM-B offenders are eligible for consideration for this override.
 - c. Overrides will be entered and approved using the OMNI LSI-R/RMI Application. Approval and rationale for the override will be documented on the OMNI RMI Override Justification Narrative entry.
 - d. Overrides for RM-A and RM-B to a lower classification require Field Administrator (FA) approval, through the Community Corrections Supervisor (CCS). All other overrides require CCS approval.
 - e. Documented rationale for community cases will be forwarded to the CCS and/or FA.

B. Facility Overrides

1. The LSI-R and RMI risk results will be used to make classification, supervision, and intervention planning decisions.
2. Overrides upward or downward will not be used to determine an offender's eligibility for the 50 percent earned time credit or supervision closure.
3. Upon completion of an accurate/valid risk assessment, an override of the RMI designation will not be used for incarcerated offenders, except to classify offenders with a current sex offense no lower than RM-B.